

ORDINANCE TO REVISE PROVISIONS OF THE CITY CODE
RELATING TO A STATE OF EMERGENCY

WHEREAS, the North Carolina General Statutes respecting declaring a state of emergency and imposing prohibitions and restrictions during a state of emergency have been revised, it is appropriate for the City Code to be revised accordingly;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DURHAM ORDAINS:

Section 1. All of Chapter 22 of the City Code, titled Emergencies and Emergency Management, is repealed.

Section 2. The following is added to the City Code to be inserted as Chapter 22:

Chapter 22. EMERGENCIES AND EMERGENCY MANAGEMENT

ARTICLE I. DECLARING A STATE OF EMERGENCY

Sec. 22-1. Purpose and construction of this article.

The North Carolina Emergency Management Act, G.S. 166A-19 et seq., grants cities and their officials various powers to address emergencies. This article is intended to carry out that grant of authority. It is intended that the terms used in this article will be construed in accordance with that Act. Additional authority for this article is found in Chapter 160A of the General Statutes, including sections 160-70, 160A-149 and 160A-150, and in sections 9, 10, 16, and 17 of the City Charter.

Sec. 22-2. Declaration of state of emergency.

The mayor is authorized to declare a state of emergency.

Sec. 22-3. Authority to impose prohibitions and restrictions.

The mayor is authorized to impose by declaration prohibitions and restrictions under G. S. 166A-19.31, and to impose those prohibitions and restrictions at a particular time as appropriate. The mayor may determine and impose the prohibitions or restrictions that he or she deems necessary or suitable to a particular state of emergency.

Sec. 22-4. Content of prohibitions and restrictions.

The prohibitions and restrictions referred to in section 22-3 include:

- (1) Of movements of people in public places, including imposing a curfew; directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the City's corporate limits and to property and rights-of-way belonging to the City and located outside its corporate limits; prescribing routes, modes of transportation, and destinations in connection with evacuation; and controlling ingress and egress of an emergency area, and the movement of persons within the area.
- (2) Of the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate.
- (3) Upon the possession, transportation, sale, purchase, and consumption of alcoholic beverages.

(4) Upon the possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, except that this subsection does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition. As used in this subsection, the term "dangerous weapons and substances" has the same meaning as it does under G.S. 14-288.1. As used in this subsection, the term "firearm" has the same meaning as it does under G.S. 14-409.39(2).

(5) Upon other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency.

Sec. 22-4. Authority of the city council.

This article does not affect the city council's power to declare a state of emergency or to impose prohibitions and restrictions under G. S. 166A-19.31.

Sec. 22-5. Methods to take actions.

To the extent allowed by law, the mayor may, by writing, oral communication, or electronic means, take any of the actions referred to in section 22-2 and section 22-3.

Sec. 22-6. Who may act when mayor is not available.

(a) During the disability of the mayor, or the mayor's absence from the city, or at other times when the mayor is not authorized by law to exercise the functions of the office, the mayor pro tempore may exercise the functions assigned to the mayor in this article. During the disability of the mayor pro tempore, or the mayor pro tempore's absence from the city, or at other times when the mayor pro tempore is not authorized by law to exercise the functions of the office, the city manager may exercise the functions assigned to the mayor in this article.

(b) The person designated or approved by the city council to perform the duties of the city manager during the absence or disability of the city manager, or while the office of city manager is not filled, may exercise the functions assigned to the mayor in this article. This subsection (b) applies only when (i), (ii), and (iii) apply:

(i) during any of the following: the disability of the mayor, the mayor's absence from the city, the time when the mayor is not authorized by law to exercise the functions of the office, or the time when the office of mayor is vacant;

(ii) during any of the following: the disability of the mayor pro tempore, the mayor pro tempore's absence from the city, the time when the mayor pro tempore is not authorized by law to exercise the functions of the office, or the time when the office of mayor pro tempore is vacant; and

(iii) during the absence or disability of the city manager, or while the office of city manager is not filled.

(c) The functions assigned to the mayor in this article include the power to terminate a state of emergency.

(d) In this section, "city manager" means only the individual appointed as city manager by the city council, and does not include any designees of the city manager.

Section 3. This ordinance is effective upon adoption.